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Attorney for Plaintiff Hilaria Ramirez

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

HILARIA RAMIREZ,

Plaintiff,

vs.

PERRY SHRIGLEY, an individual,

PERRY SHRIGLEY TRUCKING

LTD., a foreign corporation,

Defendants.

Case No. 6:21-cv-01428-MK

**PLAINTIFF'S MOTION TO
SUBSTITUTE**

MOTION

Pursuant to F.R.C.P. 25, Plaintiff's undersigned counsel moves the court to substitute the personal representative Brenda Whittle as plaintiff in place of the decedent Hilaria Ramirez.

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LR 7-1 CERTIFICATION

The undersigned attorney certifies that he conferred with defense counsel, who does not oppose this motion.

LR 7-2 CERTIFICATE OF COMPLIANCE

This brief complies with the applicable word-count limitation under LR 7-2(b) in that the entire brief with signature lines is only 3 pages.

BACKGROUND

This matter involves a personal injury tort action arising from a traffic accident. Plaintiff filed her complaint in state court on April 20, 2021. Plaintiff was able to serve Defendants on September 15, 2021. Defendants removed the matter to federal court on September 28, 2021. On October 15, 2021, Plaintiff Hilaria Ramirez passed away. Brenda Whittle was appointed as the personal representative of the estate of Hilaria Ramirez on December 9, 2021.

POINTS AND AUTHORITIES

Pursuant to Fed. R. Civ. P. 25, Plaintiff moves the court for an order substituting Brenda Whittle as the personal representative of Ms. Ramirez's estate, as plaintiff in this matter. The personal injury claims raised in the complaint are not extinguished by Ms. Ramirez's death. ORS 30.075(1) provides:

“Causes of action arising out of the injuries to a person, caused by the wrongful act or omission of another, shall not abate upon the death of the injured person, and the personal representatives of the decedent may maintain an action against the wrongdoer, if the decedent might have maintained an action, had the decedent lived, against the wrongdoer for an injury done by the same act or omission.”

The decedent's claims continue, and the motion for substitution is made within the 90-day period required by Fed. R. Civ. P. 25.

CONCLUSION

Substitution of the personal representative is proper in this personal injury matter.

DATED this 15th day of December, 2021

DWYER WILLIAMS CHERKOSS, P.C.



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**CERTIFICATE OF SERVICE
DECLARATION IN SUPPORT
OF MOTION TO SUBSTITUTE**

I hereby certify that on December 15, 2021, I served the foregoing Motion to Substitute on the attorneys for Defendants at the address below and by the following indicated method or methods:

Tessan Wess, OSB #122087
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_____ By **Mailing** full, true, and correct copies thereof in sealed, first-class postage-prepaid envelopes, addressed to the attorney as shown above, the last-known office addresses of the attorney, and deposited with the United States Postal Service at Eugene, Oregon, on the date set forth below.

X By **electronic service through ECF** system as identified on the Notice of Electronic Filing.

_____ By causing full, true and correct copies thereof to be **hand-delivered** to the attorneys of record at the courthouse, their office or current place of business on the date set forth below.

_____ By **Faxing** full, true, and correct copies thereof to the attorneys at the fax numbers shown above, which are the last-known fax numbers for the attorneys' offices, on the date set forth below.

_____ By **E-mailing** full, true, and correct copies thereof to the attorneys at the E-mail addresses shown above, which are the last-known E-mail addresses for the attorneys' offices, on the date set forth below.

DATED this 15th day of December, 2021

DWYER WILLIAMS CHERKOSS, P.C.



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